

FARAD CONSTITUTION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.4553/2006

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders or
directions and Registrar's orders.

Court's or Judge's Orders

CORAM:- A.B. CHAUDHARI, J.
DATED :- 30.04.2007.

Heard Shri Talmale, learned Counsel for petitioner and
Shri Vyawahare, learned Counsel for respondents.

An interlocutory order dated 8.6.2006 made by the
District Judge, Bhandara on application under Order 41 Rule 27
of C.P.C. in R.C.A. No.105/2005, permitting appellants before him
to produce the document of registered sale-deed is under
challenge in the present writ petition.

Shri Talmale, learned Counsel for the petitioner
submitted that the respondents did not make any ground for
production of the said copy of sale-deed at the appellate stage.
The respondents had knowledge about the said sale-deed and,
therefore, the application should not have been allowed.

Per contra, Shri Vyawahare, learned Counsel for

respondents submits that the document in question is a registered document of sale-deed which was registered when the respondents were minors and there is a finding from this Court that their interest was not properly taken care of in the litigation. He further submitted that the Appellate Court has exercised its discretion in allowing the document of sale-deed to be produced on the record of the Appellate Court. There is no error of jurisdiction and, hence, the petition should not be entertained.

Having considered the rival submissions, it seems that this Court has on the earlier occasions recorded a finding that the interest of respondents was not properly taken care of by the father of respondents in the earlier litigation and that is the reason why the matter was remanded. Apart from that, the document of sale-deed dated 19.6.1984 which is a registered document and which has vital role in deciding the issue that is involved in the appeal, I think the Appellate Court has not committed any error in exercising its jurisdiction for effective adjudication in appeal. There is no substance in the present writ petition. The same is, therefore, dismissed. No order as to costs.

JUDGE